bear the burden of such proof and yet satisfy a court requiring the proof of a single legacy by a preponderance of evidence. For this reason the issues in the tort action are not made *res judicata* by the probate decree. *Hibshman* v. *Dulleban*, 4 Watts (Pa.) 183; *Angel* v. *Hollister*, 38 N. Y. 378; *Long* v. *Baugas*, 2 Ired. (N. C.) 290.

TORTS — STATUTORY LIABILITY — INFANTS — WHETHER INFANT'S DECEIT BARS ACTION UNDER CHILD LABOR STATUTE. — While employed in the defendant's plant, in violation of a child labor law, a minor sustained injuries. Neither party was negligent. The minor had represented himself as of legal age. His mother now sues in his behalf. *Held*, that she can recover. *Alexander* v. *Standard Oil Co.*, 72 So. 806 (La.).

It is settled that a violation of a child labor law followed by injury in the employment gives a cause of action to the minor. See 28 HARV. L. REV. 433. And courts generally disallow the plea of contributory negligence. *Pinoza* v. *Northern Chair Co.*, 152 Wis. 47, 140 N. W. 84. *Contra*, *Berdos* v. *Tremont & Suffolk Mills*, 209 Mass. 489, 95 N. E. 876. Nor can assumption of risk be pleaded. *Thomas Madden, etc. Co.* v. *Wilcox*, 174 Ind. 657, 91 N. E. 933. But the contributory fault in the principal case was of a significantly different order. An employer who knows he is hiring a minor under age can reasonably be deprived of the usual defenses, based on conduct of the minor from which the statute meant to save him. It is another thing to make an innocent employer the insurer of minors whose conscious misrepresentations are to be made the source of his absolute liability. Now it has been held that an action for deceit will lie against an infant. *Rice* v. *Boyer*, 108 Ind. 472, 9 N. E. 420. The misrepresentation, by causing the employment, was a proximate cause of the employer's liability. It is, therefore, submitted that the plea of deceit should be good, either by way of counterclaim or to prevent circuity of action. *Cf. Dushane* v. *Benedict*, 120 U. S. 630. The decisions, however, support the principal case. *Inland Steel Co.* v. *Yedinak*, 172 Ind. 423, 87 N. E. 229; *Beauchamp* v. *Sturges, etc. Co.*, 250 Ill. 303, 95 N. E. 204; *Kirkham* v. *Wheeler-Osgood Co.*, 39 Wash. 415, 81 Pac. 869. *Contra*, *Koester* v. *Rochester Candy Works*, 194 N. Y. 92, 87 N. E. 77.

TRADE MARKS AND TRADE NAMES — PROTECTION APART FROM STATUTE — FAILURE TO COMPLY WITH STATE STATUTE AS BAR TO RELIEF AGAINST UNFAIR COMPETITION. — The defendant, a foreign corporation, engaged in business in Missouri without taking out a license. Thereupon, for the purpose of pirating the business, the complainant corporation organized under the same name, receiving a certificate of incorporation from the Secretary of State. The complainant filed a bill to enjoin the defendant from doing business in the state under its corporate name. The defendant filed a cross bill. *Held*, that the defendant was entitled to judgment on its cross bill. *General Film Co. of Missouri* v. *General Film Co. of Maine*, 237 Fed. 64.

Trade names are acquired by adoption and user and belong to the one who first used them and gave them value. See *Nesne* v. *Sundet*, 93 Minn. 299, 101 N. W. 490. A corporation may choose any name, subject to the rule that it may not choose the name of a corporation already existing, or one that is to be used to deceive the public. See *Van Houten* v. *Hooton Cocoa Co.*, 130 Fed. 600. See NIMS, UNFAIR BUSINESS COMPETITION, § 102. Nor does the issuance of a charter to a corporation under a certain name give it a right to use that name if it was deliberately chosen or used for the purpose of deceiving the public and thereby appropriating the business of another. *Peck Bros.* v. *Peck Bros.*, 113 Fed. 291; *Bender* v. *Bender*, 178 Ill. App. 203. Clearly, then, the defendant had a right to the trade name. Such right is enforceable in equity. For the failure of a foreign corporation to comply with the terms of a licensing statute

is not a bar. The maxim of "unclean hands" applies only when the wrongdoing has some association with the right on which the complainant depends. See 1 POMEROY, EQUITY JUR., 3 ed., § 399; 25 HARV. L. REV. 481. The furthest the courts have gone is to disqualify a complainant in case there is deceit associated with the trade name or mark. *Manhattan Medicine Co.* v. *Wood*, 108 U. S. 218; *Worden* v. *Cal. Fig Syrup Co*, 187 U. S. 516. The principal case arose in the federal courts. Now, being a foreign corporation, the defendant had the right to its name regardless of its Missouri business. And the federal courts conceive that the right of property in a trade name is incapable of being curtailed or limited territorially by statutes like that in the principal case. *U. S. Light & Heating Co. of Maine* v. *U. S. Light & Heating Co. of New York*, 181 Fed. 182. See *Consolidated Ice Co.* v. *Hygeia Co.*, 151 Fed. 10, 11. Even if the violation of the statute were by its terms to exclude corporations from state courts, the federal tribunals would still be left open to them, since the penal part of a statute does not apply to the federal courts. *New York Breweries Co.* v. *Johnson*, 171 Fed. 582. See *U. S. Light & Heating Co.* v. *U. S. Light & Heating Co.*, *supra*, 186.

WAR — CONFISCATION OF NEUTRAL SHIPS FOR CARRYING CONTRABAND CARGOES — CHANGE IN INTERNATIONAL LAW. — A Swedish vessel carrying a full cargo of conditional contraband to a German port was captured by a British man-of-war. There was no evidence that the owner of the ship knew of the character of the cargo. *Held*, that the ship is subject to condemnation. *The Hakan*, [1916] P. 266.

A Danish ship carrying a full cargo of conditional contraband between two neutral ports was captured by a British man-of-war. There was evidence that this carriage was part of a continuous voyage which was to end in German territory. There was a dispute as to whether the shipowner knew of the ultimate destination of the cargo. *Held*, that the ship is subject to condemnation. *The Maricaibo*, [1916] P. 266, 286.

For a discussion of these cases, see NOTES, p. 497.

WITNESSES — COMPETENCY IN GENERAL — EFFECT IN CRIMINAL TRIAL IN FEDERAL COURTS OF FORMER CONVICTION OF CRIME IN STATE COURTS. — In a criminal trial in a federal court in New York, a witness was offered, who at the age of eighteen had been convicted of forgery in a New York state court and had been given an indeterminate sentence at a reformatory. *Held*, that he was a competent witness. *Rosen* v. *United States*, 56 N. Y. L. J. 771 (C. C. A., 2nd Circ.).

The court rests its decision on a supposed distinction between reform and punishment. In criminal trials in the federal courts, the competency of witnesses is determined by the law of the state as it was at the time of the Judicature Act of 1789, or at the time the state was admitted to the Union. *United States* v. *Reid*, 12 How. (U. S.) 361; *Logan* v. *United States*, 144 U. S. 263; *Maxey* v. *United States*, 207 Fed. 327. In the absence of state decisions of that time, the common law controls, according to which conviction of forgery brings infamy. *Rex* v. *Davis*, 5 Mod. 75. *Cf. Poage* v. *State*, 3 Ohio St. 229. Therefore a subsequent substitution of reform for punishment is immaterial. Further, it is well settled that it is the infamous nature of the crime and not the character of the punishment which determines the qualification of a witness. *People* v. *Park*, 41 N. Y. 21; *The King* v. *Priddle*, 1 Leach C. C., 4 ed., 442. See *Bartholomew* v. *People*, 104 Ill. 601, 607. See also GREENLEAF, EVIDENCE, 15 ed., § 372, n. 1. However, the result might be supported on another ground. A witness is ordinarily disqualified only in the jurisdiction where he was convicted. *Commonwealth* v. *Green*, 17 Mass. 514; *Sims* v. *Sims*, 75 N. Y. 466. *Contra*, *State* v. *Candler*, 3 Hawks (N. C.) 393. See STORY, CONFLICT OF LAWS, 7 ed., § 92; 21 HARV. L. REV. 547. Since the state and federal courts